

ATTORNEY DOCKET NO
forbes-pitchextr

PATENT
U.S. 10/060,022

Remarks/ Arguments

In response to the Office Action mailed November 18, 2008, Applicants respectfully request that the Examiner reconsider the rejections of the claims.

Claims 1 – 19 remain.

Claims 16 and 19 are being amended.

Claim 16 stands rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants have amended Claim 16 to strike the term "mineral" to obviate this rejection.

Claim 19 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicants have amended Claim 19 to further limit the subject matter of independent Claim 1.

Claims 1-19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the Wong et al. (WO 99/42471) reference (hereinafter "*Wong*"). Applicants respectfully traverse these rejections.

There are two main differences between *Wong* and the invention defined by Claims 1 - 19. The first difference is that in the present invention, distillation of the pitch to remove excess rosin acids and fatty acids to form a distilled pitch (step (b)) occurs before the saponification of the distilled pitch with an aqueous solution of one or more alkali metal bases to form a saponified pitch (step (c)). In *Wong*, saponification occurs before distillation.

Advantageously, the pre-saponification distillation removes excess rosin acids and fatty acids such that the subsequent saponification step is more efficient in terms of conversion of steryl esters to free sterols. In turn, by performing a distillation step before the saponification step, the amount of alkali metal base required for saponification and the amount of acid required for subsequent neutralization are reduced.

503472 000009 DALLAS 2475707.1

ATTORNEY DOCKET NO
forbes-pitchextr

PATENT
U.S. 10/060,022

The second difference is that, according to the present invention, the neutralization step of the saponified pitch ends with a pH of between 5.8 and 6.3 (step (d)) whereas *Wong* states a pH in the range of between 4 and 7, and preferably between 5 and 7.

As disclosed in the description, achieving a pH within the claimed range is important to the overall efficiency of the process. A higher pH will result in difficulty in the subsequent water removal steps; and a lower pH will catalyze the reversion of the free sterols to their esterified form during storage and handling, thereby significantly reducing end yield of free sterols.

Though *Wong* discloses the broad range of a pH of from 4 to 7, and preferably 5 to 7, and an example pH of 6.4, there is no suggestion of the advantage of this pH. In particular, *Wong* does not suggest limiting the pH to the claimed range to effectuate an improvement in the subsequent water removal steps and reduce catalyzation of the reversion of the free sterols to their esterified form.

In sum, *Wong* does not teach or suggest a process in which: (1) pre-distillation is performed prior to saponification to increase the efficiency of the process and reduce the amount of alkali base metal required; and (2) the pH is controlled within a prescribed range to improve the water removal steps.

No new matter has been added; the claims have been merely amended to more particularly claim the subject matter Applicants believe is inventive. Applicants respectfully submit that the Claims as they now stand are patentably distinct over the art cited during the prosecution thereof.

Applicants respectfully request a Two Month Extension of Time to File this Response. Enclosed with this response is Form PTO/SB/22 with Extension Fees in the amount of 490.00.

With the addition of no new claims, no additional filing fees are due. However, the Commissioner is hereby authorized to charge any fees or credit any overpayment to Deposit Account Number 20-0821 of Thompson & Knight LLP.

503472 000009 DALLAS 2475707.1

ATTORNEY DOCKET NO
forbes-pitchextr

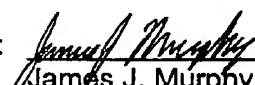
PATENT
U.S. 10/060,022

If the Examiner has any questions or comments concerning this paper or the present application in general, the Examiner is invited to call the undersigned at (214) 969 - 1749.

Respectfully submitted,

Thompson & Knight LLP
Attorneys for Applicant

By:


James J. Murphy
Reg. No. 34,503

1722 Routh Street
Suite 1500
Dallas, TX 75201 - 2533
Date: April 14, 2009

503472 000009 DALLAS 2475707.1